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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,938	08/04/2003	Kevin A. Kelly	D24-1d	5790

7590 05/15/2006

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EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,938

Applicant(s)

KELLY ET AL.

Examiner

Tam Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-260 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 128-134, 145-156, 171-182, 198-212 and 228-239 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

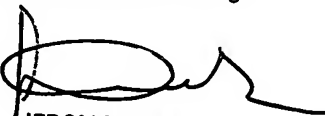
Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No: ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8-4-03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Continuation of Disposition of Claims: Claims withdrawn from consideration are 41-49,60-68,79-87,98-107,118-127,135-144,157-170,183-197,213-227,245,246,249,250,253,254,257 and 258.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 240-244,247,248,251,252,255,256,259 and 260.

DETAILED ACTION***Election/Restrictions***

1. Claims 41-43, 45-49, 60-68, 79-87, 98-107, 118-127, 135-144, 157-170, 183-197, 213-227, 245, 246, 249, 250, 253, 254, 257 and 258 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention I, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 24, 2006. Applicant's election with traverse of Species G of Invention II is acknowledged; thus claims 240-244, 247, 248, 251, 252, 255, 256, 259 and 260 are also withdrawn as being drawn to nonelected Species. In particular, the elected species does not include a blood flow apparatus or a manual actuator as disclosed in claims 240-244. Since the remaining species are not obvious variants of the elected species and the applicant has not shown that the species are not patently distinct, the restriction requirement remains.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "actuator means" of claim 128, the fluid-pressure motor, the hydraulic motor and the pneumatic motor of claims 154-156 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures

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Any amended replacement drawing sheet should include all of the figures

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appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 131, 132, 145, 148, 149, 174, 175, 201, 202, 210 and 211 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 131, 132, 148, 149, 174, 175, 201, 202, 228, 232 and 239, the specification does not disclose a

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means for detecting when the belt means has placed a patient's chest under compression nor the inducement of a defibrillating electric current to the patient's chest at that time. Additionally, the specification does not disclose a means for detecting when the belt means has placed a patient's chest under maximal compression nor the inducement of a defibrillating electric current to the patient's chest at that time. Accordingly, steps C and D of claim 228 will not be given patentable weight in order to expedite the prosecution. Regarding claim 145, the specification does not disclose a step in the resuscitation process where a signal is provided to a powered belt means to tighten the belt means around a patient's chest. Regarding claims 211 and 212, the specification does not disclose how the cable is attached to the belt. Furthermore, it is not clear whether the cable is a conduit for power or whether the cable is merely a component that is actuated or moved to move the belt means.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 128-134, 145-156, 171-182, 198-212 and 228-239 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 128, 145, 171, 198 and 228 recite the limitation "said patient's chest" in lines 2-3 of each claim. Claim 145 also recites the limitation "said apparatus" in line 4. Claim 152 recites the limitation "said on state" in line 2. There is insufficient antecedent basis for these limitations in the

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claims. Claims 129-134, 146-156, 172-182, 199-212 and 229-239 are also rejected for being dependent upon rejected base claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 128-130, 133, 134, 145-147, 150-153, 171-173, 176-179, 198-200, 203-206 and 212 are rejected under 35 U.S.C. 102(a) as being anticipated by Mollenauer et al. (6,142,962).

5. As to claims 128-130, 133 and 134, Mollenauer discloses a method of CPR treatment that comprises wrapping a belt means (3) with first (3L) and second (3R) opposite ends around a patient's chest, fastening to an actuator means (7) the belt means, and providing a power means to said actuator means and moving the belt means in a direction to tighten the belt means around the patient's chest wherein the power means has two states such that the belt means is tightened in one state and loosened in a second state, and the transition from state to state is periodically repeated (see Figs. 1, 2 and 4-6). Mollenauer also discloses that the method includes defibrillating the chest of the patient undergoing CPR via electrodes disposed at two spaced outer chest surfaces (opposite inner surface of the compression belt (see Fig. 6 & Col. 8, lines 56-63 and Col. 10, lines 20-58).

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6. As to claims 145-147, 150-153, Mollenauer discloses a method as substantially claimed wherein the belt is tightened substantially equally around a patient's chest via an electric motor (see ABSTRACT & Col. 3, lines 53-57).

Furthermore, Mollnauer discloses a particular signal is periodically provided to a powered belt means tightener to tighten the belt means around a patient's chest (see Col. 11, lines 11+).

7. As to claim 171-173, 176-179, 198-200, 203-206 and 212, Mollenauer discloses a method as substantially claimed wherein power is conveyed from a power unit to an actuator along a cable (see Col. 7, lines 12-35) and a belt means is tightened substantially equally around a patient's chest via an electric motor (see ABSTRACT & Col. 3, lines 53-57). Mollenauer also discloses that the power is conveyed automatically (when attached to a battery power source) and in regular periodic intervals (see Col. 6, lines 61-66).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 154-156, 180-182 and 207-209 are rejected under 35 U.S.C.

103(a) as being unpatentable over Mollenaer et al. (6,142,962).

8. As to claims 154-156, 180-182 and 207-209, Mollenauer et al. disclose a method as described above (see discussion of claims 152, 178 and 205

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respectively). Mollenauer discloses a motor that is electric but not a fluid-pressure, hydraulic or pneumatic motor. The Examiner takes Official Notice that the prior art includes portable medical devices that utilize various types of motors as claimed. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of powered motors including fluid-pressure, hydraulic or pneumatic motors since they are considered to be functionally equivalent in the medical arts to an electric motor in providing a powering means.

Claims 131, 132, 148, 149, 174, 175, 201, 202, 228-235 and 239 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollenaer et al. (6,142,962) in view of Barkalow et al. (4,273,114).

9. As to claims 131, 132, 148, 149, 174, 175, 201, 202, 228-235 and 239, Mollenauer et al. disclose a method as described above (see discussion of claims 130, 147, 173, 200 and 231 respectively). Mollenauer does not disclose detecting when the belt means has placed the patient's chest under compression and further maximal compression and inducing defibrillation at said compression and maximal compression. Barkalow discloses an apparatus and inherently a method of cardiopulmonary resuscitation that includes defibrillation wherein a patient's chest is placed under compression or maximal compression and defibrillation is applied simultaneously (see ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Mollenauer's CPR treatment method since the compression

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would shorten the electrical path to the heart thereby reducing the amount of power required to defibrillate the heart.

10. As to claims 236-238, Mollenauer et al. and Barkalow disclose a modified method as described above (see discussion of claim 234). Mollenauer discloses a motor that is electric but not a fluid-pressure, hydraulic or pneumatic motor. The Examiner takes Official Notice that the prior art includes portable medical devices that utilize various types of motors as claimed. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of powered motors including fluid-pressure, hydraulic or pneumatic motors since they are considered to be functionally equivalent in the medical arts to an electric motor in providing a powering means.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Latch ' 164, Bystrom et al. '056 and Sherman et al. '106 each disclose a method of performing CPR that includes wrapping a belt means around a person's torso and tightening said belt means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

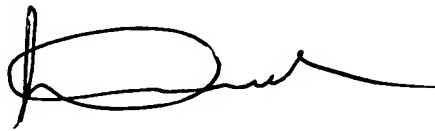
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 10, 2006

A handwritten signature in black ink, appearing to read 'Jerome Donnelly', with a stylized, elongated horizontal stroke at the end.

JEROME DONNELLY
PRIMARY EXAMINER